

### **REMARKS**

This Response is in reply to the Office Action mailed on September 7, 2004. Claims 1-15 are pending and claims 1 and 15 have been amended herein. No new matter has been added. Entry and consideration of the amendments and following remarks is respectfully requested.

#### **Amendments to Claims 1 and 15**

Claims 1 and 15 have been amended to include the limitation that the packaging assembly is used in automatic dispensing machines equipped with microwave ovens. Support for the amendments to the claims is described in the specification beginning on page 8, and shown in Fig. 2. No new matter has been added.

#### **Claim Rejections - 35 USC §102(b)**

Claims 1, 5, 11, 13 and 15 are rejected under 35 U.S.C. §102(b) as being anticipated by Levinson (U.S. 4,390,554). This rejection is respectfully traversed.

Independent claims 1 and 15 have been amended to include the limitation that the packaging assembly is used in automatic dispensing machines equipped with microwave ovens. It is Applicant's contention that claims 1 and 15 of the present invention are not anticipated by cited prior art. The Applicant asserts that the claims are now patentable over Levinson because this feature is not present in Levinson.

By reason of their dependency on independent claim 1, the Applicant asserts that claims 2-14 are also patentable over Levinson.

Furthermore, the packaging of Levinson can not be used in automatic dispensing machines. Levinson discloses a packaging to be used with frozen food, which is not the case in the present application and not suitable to be used in automatic dispensing machines because the process requires handling of the packaging. Also, the packaging of Levinson is not suitable to be used with a food product, such as popcorn, because it comprises a perforated plastic film (2) which permits the steam to escape from the packaging.

In the present invention, the packaging assembly was devised to cook or heat food products, such as popcorn, in microwave ovens without the necessity of manually removing the outer package of plastic material when the packaging is introduced into the microwave oven in an automatic dispensing machine. Furthermore, in the present application, the steam permits the inner wrapper to expand to create the volume necessary for the popcorn. If the inner wrapper can not expand, the corn would burn and the formation of popcorn would not be possible. The packaging assembly is designed to contain corn, and not frozen food, which requires that the humidity and organoleptic qualities be preserved until its transformation into popcorn.

Accordingly, Levinson does not anticipate the present invention as recited in independent claims 1 and 15. Therefore, it is respectfully requested that the anticipation rejections be withdrawn.

**Claim Rejections - 35 USC §103(a)**

Claim 3 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable Levinson (U.S. 4,390,554) as applied to claims 1, 5, 11, 13, and 15 in view of Cox (U.S. 5,679,278). Claim 8 is rejected under 35 U.S.C. §103(a) as being unpatentable Levinson (U.S. 4,390,554) as applied to claims 1, 5, 11, 13, and 15 in view of Smart et al. (U.S. 4,890,439). Claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable Levinson (U.S. 4,390,554) as applied to claims 1, 5, 11, 13, and 15 in view of Borek (U.S. 4,219,573). Claims 2, 7 and 10 are rejected under 35 U.S.C. §103(a) as being unpatentable Levinson (U.S. 4,390,554) as applied to claims 1, 5, and 13 in view of Borek (U.S. 4,219,573). Claims 1, 4-6, 12 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Engstrom et al. (U.S. 4,734,288) in view of Anderson (U.S. 4,950,859). These rejections are respectfully traversed.

As stated above, independent claims 1 and 15 are patentable because the limitation that the packaging assembly is used in automatic dispensing machines equipped with microwave ovens is not present in the cited prior art. Also, by reason of their dependency on independent claim 1, the Applicant asserts that claims 2-14 are also patentable over the cited prior art.

With regard to Engstrom, the reference does not teach or disclose an outer package which is melted during its heating. Since the reference does not teach this limitation, the microwave popcorn package can not be used in automatic dispensing machines, as specifically recited in amended claim 1.

With regard to Anderson, the reference does not teach or suggest a heat-concentrating material 22 which melts any portion of the microwave food package. The heat-concentrating material is used to increase the cooking efficiency.

In the present invention, the use of a substrate which is made up of a continuous web permits control of the position of the outer package (i.e. bag) inside the automatic dispensing machine. When the popcorn is formed and the outer package is melted, the melted outer package remains stuck to the continuous web.

Applicants submit that there is absolutely no teaching or suggestion in Engstrom that would lead one to combine the teachings of that reference with Anderson. None of the references teach or suggest a packaging assembly used in automatic dispensing machines equipped with microwave ovens as in the present invention. Accordingly, absent some motivation, one of ordinary skill in the art would not combine the invention of Engstrom with the teachings of Anderson. Furthermore, Applicants submit that even if the references were combined, the result would not be the present invention which claims a portion of the outer package is melted to permit removal of the inner wrapper from the outer package or a packaging assembly used in automatic dispensing machines equipped with microwave ovens.

Accordingly, Applicant asserts that claims 1, 4-6, 12 and 13 are patentable over the cited prior for the reasons stated above. It is therefore respectfully requested that the rejection of the claims under 35 U.S.C. §103(a) be withdrawn.

**Conclusion**

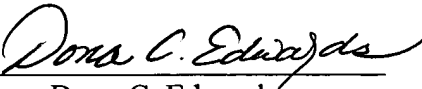
In view of the amendments to the claims 1 and 15 made herein and the arguments presented above, it is submitted that the Examiner's rejections have been overcome and should be withdrawn. The application should now be in condition for allowance.

The Applicants note that there is no indication that the drawings are acceptable. The Applicants respectfully request that the Examiner provide indication that the drawings are accepted by the Examiner in the next formal communication.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

This Response is being timely filed. In the event that any other extensions and/or fees are required for the entry of this Amendment, the Patent and Trademark Office is specifically authorized to charge such fee to Deposit Account No. 50-0518 in the name of Steinberg & Raskin, P.C. An early and favorable action on the merits is earnestly solicited. An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,  
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